

Remarks

In view of the above amendments and the following remarks, favorable reconsideration of the outstanding office action is respectfully requested.

Claims 7-11 remain in this application. Claims 1-6 have previously been withdrawn from consideration, without prejudice.

1. Restriction Requirement

The Examiner issued a Restriction Requirement identifying the following groups of claims as being drawn to potentially distinct inventions:

- Group I. Claims 1-6, drawn to a method, classified in class 430, subclass 321; and
- Group II. Claims 7-11, drawn to a device, classified in class 385, subclass 49.

The Examiner asserted that these inventions may be regarded as independent and distinct from one another because, according to the Examiner, the product can be made by a materially different process such as elastomeric insertion for compensation.

In a telephone conference with the undersigned attorney of record dated 2/27/03, a provisional election to Group II, claims 7-11 was made, without traverse. Applicants hereby confirm that provisional election, without traverse.

Therefore, claims 1-6 are withdrawn from further consideration by Examiner.

§ 102 Rejections

Claims 7, 9, 10 and 11 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Yoneda (U.S. Patent Application Publication No. 2002/0122623).

However, applicants made their invention prior to the filing date of the Yoneda reference.

Enclosed herewith is a declaration by one of the inventors, stating that the invention was conceived prior to December 29, 2000 and copies of the Invention Disclosure Notification and the Inventor's Laboratory Notebook pages. Both date prior to the filing date of the Yoneda reference.

Accordingly, claims 7 and 9-11 are not anticipated by the Yoneda reference.

§ 103 Rejections

Claim 8 stands rejected under 35 U.S.C. § 103 as being unpatentable for obviousness over Yoneda (U.S. Patent Application Publication No. 2002/0122623), as applied to claim 1.

Applicant assume that the Examiner meant as applied to claim 7, not claim 1, because claim 1 is a Group 1 claim, not a Group 2 claim. However, if Applicants' attorney is mistaken, Applicant's attorney requests that she be notified of such mistake.

Claim 8 is not obvious over Yoneda because it depends from claim 7 as its base claim and applicant's invention predates the filing date of this the reference.

Furthermore, the Yoneda reference discloses a planar device and does not teach or suggests the use of optical fibers. Even more significantly, Yoneda does not enable one of ordinary skill in the art to produce an equivalent fiber device. Therefore, claim 8 is not obvious over the Yoneda reference.

Conclusion

In view of the above, Applicants submit that the pending claims 7-11 are in condition for allowance, and such allowance is earnestly solicited.

Applicants believe that no extension of time is necessary to make this Response timely. Should Applicants be in error, Applicants respectfully request that the Office grant such time extension pursuant to 37 C.F.R. § 1.136(a) as necessary to make this Response timely, and hereby authorizes the Office to charge any necessary fee or surcharge with respect to said time extension to the deposit account of the undersigned firm of attorneys, Deposit Account 03-3325.

Please direct any questions or comments to Svetlana Z. Short at (607)-974-0412.

Respectfully submitted,

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